



TOWN OF PLATTSBURGH

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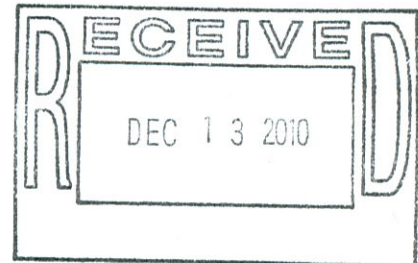
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December 11, 2010

Jonathan Ruff
Environmental Manager
City of Plattsburgh
41 City Hall Place
Plattsburgh, New York 12901



Re: Clinton County Compost Facility
Response and Comments to EAF

Dear Mr. Ruff;

I am the Deputy Town Attorney for the Town of Plattsburgh and on behalf of the Town Board and Town Planning Board, submit this letter responding to your request for comments on the EAF that you provided. Following the review of the EAF submitted, jointly the Boards submit the following initial comments in support that the documentation received is incomplete and misleading and re-submittal is in order prior to any hearing on such project or for compliance with SEQRA. We reserve the right to make additional comments on any future or supplemental submittals.

The information that you provided is incomplete. The EAF submitted by the City failed to provide all of the current application materials along with it to make the information in the EAF meaningful. Further, we note that the EAF is dated as of 11/9/2010, implying that it was never prepared at the time of the application to DEC or the time the City claimed lead agency status. In addition, the EAF fails to acknowledge the full scope of the action to include the County's real property transfer transaction.

As to the submitted document, we comment as follows:

1. Page 1 references the completion of EAF Parts 1, 2 and 3. If this is accurate, completion of Parts 2 and 3 is premature, especially in light of this request for comments.
2. Page 2: Description of Action. No detail provided on the alternative process identified in the description. Further, we indicated above the city failed to provide the current application materials along with the EAF. The description fails to describe any changes, additions or modifications to address the inability of the city operator to dispose of stock piled treated sludge or other problems associated with the 2002 through 2006 operational period before the waste treatment facility was shut down by the City.

3. Page 2: Drainage. It identifies nearly 60% of the site as poorly drained. There needs to be provided more detail on this as it could lead to a potentially significant adverse environmental impact.
4. Page 3: Archeological sensitivity. The EAF identifies site as including an area of sensitivity. However, provides no information about further investigation or coordination with OPRHP. This could lead to a potentially significant adverse environmental impact.
5. Page 3: Sole Source Aquifer. Site is identified as located above sole source aquifer, but fails to provide additional information regarding measures to protect it. This could lead to a potentially significant adverse environmental impact.
6. Page 3: Wildlife. Fails to provide any information beyond DEC's resource map. Further study required to confirm no potential adverse environmental impact, especially given site's proximity to Saranac River and on-site wetlands. Refer to DEC's amended ESA regulations.
7. Page 3. Community recreation resource. This fails to recognize the relevance of the site due to proximity to Saranac River and the use by the community of the river shoreline for recreational use, especially for tubing.
8. Page 3; Wetlands. Federal wetlands inventory map identifies approximately 4.27 acres of federal wetlands on site. Wetlands delineation should be provided in order to be able to assess potential adverse impacts to this resource. Is the flood plain proximate to the site?
9. Page 3: Public Utilities. Should be identified with confirmation of adequacy from the providers.
10. Page 3: Project Description. Total acreage identified as controlled by City equals 177.1 acres. However, project acreage, including undeveloped lands only equals 43.9. The City should identify its intentions for the remaining unused lands that it controls.
11. Page 3: This project as describe appears to be an expansion.
12. Page 3: Vehicle trips. A traffic report or some other support should be provided for the City's trip generation figure as well as conclusion on page 5 about traffic generation.
13. Page 3: Linear feet of road frontage. Adjacency along I-87 is misleading because it is not legitimate road frontage, since no viable access.
14. Page 4: Job creation. City identifies no jobs to be created. This implies it is self automated and ready to go. However, comments and reference to a fire and nonuse have been made. This discrepancy needs clarification.
15. Page 4: Phases. City disregards the County sale phase of this project. In addition, fails to consider futures phases/expansions that were noted in earlier materials. This is only a portion of the property under the City control. Your review of the project is being segmented.
16. Page 4: Liquid waste disposal. How will leachate/excess liquids from sludge be managed? Is any dewatering involved in the process? Any on-site management or disposal could result in a potential significant adverse environmental impact.
17. Page 4: Odors. No support provided for negative response about routine odors production. Same for operating noise. Given site history, both, but especially the former, are likely a source of potential significant environmental impact and therefore a legitimate basis for a positive declaration. Numerous comments were received at the Environmental Justice hearing and the impacts having been addressed are ignored in the EAF.
18. Page 4: Any chemicals to be used in the process and stored on-site?
19. Page 4: Public funding. But an EPA grant was mentioned.
20. Page 5: Failure to identify both the Town Board and Planning Board and the County as involved agencies. Complete disregard for Town zoning approvals and the moratorium. No support for conclusion of consistency with local land use plans (clearly not consistent with moratorium that is part of the local land use plan).

21. Page 5: No support for consistency with surrounding land uses. The City does not provide sufficient information to determine whether the proposed action will discourage the development and use of adjacent lands and whether the nature, scale and intensity of use is appropriate for this site.
22. City should refrain from moving ahead with SEQRA review while litigation is pending on the scope of the SEQRA review inclusive of the County sale. Same comment related to the moratorium.
23. Inconsistent answers in Part 1 section B. At part b. item 16 the project will generate solid waste was affirmative, however, the anticipated rate was purported to be less than 1 ton, what was the amount of the tonnage delivered to the county landfill during the prior operations, does that support that calculations.
24. Further part B item 16 (d) has an affirmative response to the question if any wastes will not go into a sewage disposal system or into a sanitary landfill. The City failed to report or mention that the prior operations allowed the wastes to be spread upon the ground on area farms. Further, that such action was determined that the sludge was a solid waste. Please provide what measures will insure that will not allow this to happen again?

Your letter addressed only to the Planning Board only had the EAF attached and nothing more. The failure to make available the entire SEQRA record not only violates the ECL (Environmental Conservation Law) but also makes it utterly impossible for the Town Board and Planning Board, as well as the public and other interested or involved agencies, to undertake a meaningful review of the proposed action's impacts and the completeness and accuracy of the material.

You had described the action in the EAF, on page 1, as a modification for a system, then on page 2 it is entitled a proposed permit modification, however, no description of the system or modification to the system or permit is provided. Further, no prior permit or underlying reports, studies, or other information considered then or now for this action is included or provided. The information provided in the EAF is incomplete, making it difficult to fully understand the impact and effects of the proposed action. Failing to provide information on the prior analysis as well as not providing a description of the modification to the system or the permit, and the lack of any technical reports supporting the modifications, defeats the purpose of the EAF and undermines the spirit and purpose of SEQRA. Without this information being provided and clarified, one cannot assess if the purported modification may be so significant and numerous that the action has in fact has evolved into an entirely new project that would warrant a completely new and full consideration under SEQRA.

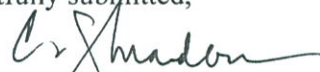
The Town Board and Planning Board notes that normally a modification would entail a supplemental information submission so the lead agency can support its decision, however, in this instance the public and involved and interested parties are provided only with bald assertions in the EAF for a purported modification that is not defined and lacks any supporting documentation of such assertions, much less the prior information so that a comparison with prior operations then and that now proposed may be had. Accordingly, the EAF is woefully incomplete and the City as lead agency should at a minimum:

- a. extend the public comment period, and
- b. provide the additional information that accurately and more fully describe the modification(s), whether to the permit or the system,
- c. provide all supporting information that it has as to the project, both to that which was previously operated, along with the prior EAF and SEQRA determinations, and that now proposed, and
- d. either provide a comparison of the previous permitted action and the actual operations, that were undertaken and what the pending action now proposed is, and
- e. if there is no information in support of the pending action, then be clear and so state the facts.

The EAF does not address or provide any assurances to the safe and environmentally sound management of biosolid disposal. Nor does it adequately identify potential impacts brought up during the Environmental Justice Public Meetings or the Lead Agency dispute brought before the NYDEC Commissioner.

Finally, given the pending litigation over the County's failure to conduct any SEQRA analysis whatsoever with regard to its sale of the subject property to the City to enable it to move forward with the project, it is premature for the City to move forward with this review. The City's failure to even acknowledge this transaction, and the litigation, is a clear example of unlawful segmentation in clear violation of SEQRA. Accordingly, the City should refrain from any further review until this litigation is resolved and the County and City actions are reviewed together as one single action under SEQRA.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "C. J. Madonna", written over the typed name.

C. J. Madonna, Deputy Town Attorney
On behalf of Town Board and
Town Planning Board of the Town of
Plattsburgh